

ELECTRICAL INDUSTRY RESTRUCTURING TRANSITION ADVISORY COMMITTEE (TAC)

January 2000

1999 Annual Report to the Governor, the Speaker of the House, the President of the Senate,
and the Public Service Commission

Published By



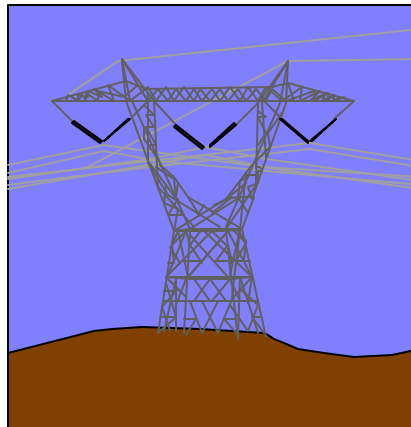
Legislative Services Division
PO Box 201706
Helena, MT 59620-1706
PHONE: (406) 444-3064
FAX: (406) 444-3036
EMAIL: leglsd@mt.gov

Electrical Industry Restructuring Transition Advisory Committee (TAC)

1999 Annual Report to the Governor, the Speaker of the House, the President of the Senate, and the Montana Public Service Commission.

Preface & Acknowledgments: This is the second annual report prepared by staff on behalf of the TAC in accordance with the requirements of 69-8-501(9), MCA. Legislative Services Division Research Analyst Stephen Maly is the author of this report, and he gratefully acknowledges information received from Mr. Don Quander, Mr. Dave Wheelihan, Mr. Neil Colwell, and Mr. Bob Anderson (all TAC members), as well as Ms. Debbie Smith (NRDC), Ms. Deb Young (MPC), and Mr. Warren McConkey (Flathead Electric Cooperative).

The report addresses conditions and events through January, 2000. It has two main parts, a Summary Overview and a Background section, followed by several appendices that provide a list of TAC members, a list of suppliers licensed to sell electricity in Montana, a synopsis of restructuring in each of the 50 states, some information about default supply provisions in other western states, and a briefing paper prepared for the Environmental Quality Council in early January. Readers who would like a more comprehensive accounting of the TAC's activities *per se* are invited to request copies of the Committee's summary Minutes from staff, or to obtain them directly via the Internet by visiting the state's Home Page (<http://mt.gov>) and clicking on Legislative Info., then Committees, then Electrical Utility Restructuring Transition Advisory Committee.



Introduction. What is the status of restructuring at the end of 1999? This seems a simple question, but it's not. Montana is still in the middle of a transition period that began with passage of Senate Bill

390 in 1997 and will extend at least to July 1, 2002, and perhaps (under a provision of SB 390) for two additional years. Electrical industry restructuring--sometimes referred to as deregulation, or, more accurately, partial deregulation--is an inherently complex process; it has become even more complicated by unanticipated events, such as the sale of Montana Power Company's electrical generation assets, PacifiCorp's sale of its distribution system to Flathead Electric Cooperative, as well as the abundant uncertainties embedded in federal-level activities, ranging from hydropower facility licensing renewal decisions by the Federal Energy Regulatory Commission (FERC), power marketing policy decisions by the Bonneville Power Administration (BPA), and pending national restructuring legislation in the U.S. Congress.

Anticipating what sort of market forces will play in Montana's anomalous state of affairs --restructuring in a relatively low electricity price environment--requires an *active patience* on the part of legislators and other Montana citizens who are keenly interested in the outcome of the restructuring process. This sounds contradictory, but patience is essential because too few things have happened or taken shape to enable the Transition Advisory Committee (TAC) to determine with confidence where the transition is taking anyone but large industrial consumers of electricity, who by and large urged passage of SB 390 and are the first to benefit from choice. Nevertheless, a certain amount of activity is necessary because the law demands it--the TAC has statutory monitoring, oversight, and reporting requirements--and because what has happened and what seems to be taking shape will determine the contours of competition in the post-transition period.

Unexpected events in the recent past and resulting decisions that will be taken in the future cloud consumers' horizons. The sell-off of MPC's generation assets in late 1998 is the landmark event of this phase of the transition process, and the Public Service Commission had to suspend its action vis a vis the company's transition plan until the deal closed, after repeated delays, in December, 1999. The financial details and their ramifications have yet to be determined; the Commission's decisions regarding stranded cost recovery and related issues are still pending. Another example of unforeseen difficulties are the recent travails of the Montana Electricity Buying Cooperative (MEBC), authorized by Senate Bill 406 in the 1999 Legislature, but then finding itself caught in a double bind, not qualifying for BPA preference power and not being able to become qualified because SB 406 prohibits the cooperative from owning a distribution system. In addition, few if any participants in the restructuring process foresaw that the matter of ensuring reliable "default supply" for Montana Power Co. customers who do not exercise choice would be bound up with and complicated by BPA's standards for service requirements.

In short, most residents of the state are probably still in a fog (if not the dark) of unknowing about the practical consequences of restructuring, and the Transition Advisory Committee is squarely in the middle of a dynamic muddle. The TAC may be in a position to help clear the air and focus public attention on the future, but not until a number of controversies are settled and a number of related problems are resolved. There may be more surprises yet to come. Moreover, there are a number of issues--BPA's final settlement of residential exchange benefits for Montana, the persistence of

perceived inequities in property tax burdens, the potential for cost shifting from electricity supply to local and regional transmission and distribution charges on customers' bills, the structure and identity of regional transmission organizations, and others-- may generate legislative proposals to resolve conflicts, reduce inequities, or refine the role and scope of regulation.

SUMMARY OVERVIEW

What follows is a brief summation of activities, events, and developments that are indicative of the state of restructuring in 1999.

- PP&L Global purchased MPC's generation for \$757 million, approx. \$157 million above the estimated book value, but less than the earlier estimate of nearly \$1 billion. There is a possibility that MPC will realize an additional \$150 million in proceeds if PP&L is successful in acquiring Portland General Electric and Puget Sound Energy shares of Colstrip 4. The sale price prompted the company to propose a voluntary \$16.4 million annual rate cut to residential and small business customers. MPC's other gains from the sale will be allocated to transactions costs, generation-related transition costs, regulatory asset transition costs (existing power supply contracts) and its Touch America affiliate.
- Having been granted choice as of July 1, 1998, a number of large industrial consumers are enjoying significant savings on their electricity purchases, while some are not. Savings have depended upon the details of specific supply contracts, particularly the timing and duration of the contracts, and whether prices are fixed or tied to market indexes. Scheduling to avoid energy imbalances and other technical and financial bugs are being worked out.
- Competitive Transition Charges, aka stranded costs, will not be determined until the PSC has had time to evaluate the results of MPC's generation asset sale to PP&L Global. A hearing is expected in the summer of 2000. Uncertainty about CTCs is handicapping suppliers and customers alike, and the final amount of charges may determine whether customers experience real savings on their electricity bills. Until such time as the CTCs are decided upon, marketers or brokers say there is little incentive to obtain licenses or go further to offer competitive packages to small commercial and residential consumers in MPC's service territory.
- Montana Power Co's residential and commercial customers are receiving unbundled bills, separating supply from transmission, distribution, and other service costs, but CTCs are not yet separately identified. At the end of 1999, more than 1,200 Montana Power electric accounts had moved to competitive suppliers by signing a contract with a licensed supplier. A small number of MPC residential customers have opted for a different supplier ahead of schedule. Energy West has managed to attract business in the Great Falls area, and from a number of cities and towns.

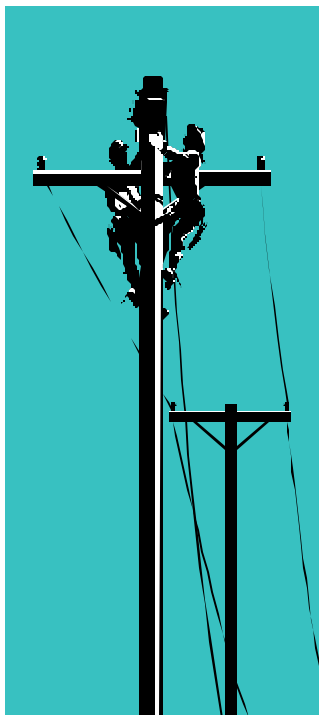
- The electricity buyback provisions within the MPC-PP&L Global transaction will prove problematic in the resolution of the "Tier II" issues in MPC's transition plan filing with the PSC. Under the rate moratorium provision of SB 390, PP&L has to supply MPC during the transition period at below-market rates. This condition reduced the price paid for MPC's generation assets, which in turn may add appreciably to customers' transition cost burden or deter customers from choosing another supplier during the transition period, or both.
- There are 21 companies licensed to supply power to industrial/large commercial customers, but only four (so far) are interested in supplying small commercial and residential accounts. (See Appendix 2). Whether this relative dearth of competitors in the residential category is a function of unresolved pricing issues (including CTCs), pending or unresolved rules or other PSC issues, other policy or statutory barriers to entry, or geographic and demographic facts of life in Montana, remains an open question.
- The PSC published draft rules on default supply. SB 406 required that licensing rules be finalized by December 1, 1999. The TAC passed a motion on Nov. 5 advising to delay action on the default supplier selection process until next September. The main argument against more immediate action is that assigning default responsibilities before effective competition is in place would likely deter competitors from entering the market. This would be contrary to the legislature's intentions in passing SB 390 in 1997. The main counterargument also has a statutory basis; in passing Senate Bill 406 and House Bill 211 in 1999, the legislature signaled its approval of a potential scenario in which one or more non-utility entities (a buying cooperative or a municipality, respectively) could be designated by the PSC as a default supplier prior to 2002. Missoula has obtained a license to supply electricity to consumers in its local area, in accordance with HB 211.
The PSC postponed a decision on the rules for selecting default suppliers until June of 2000.
- There is a Montana Electricity Buying Cooperative, enabled by SB 406, that will (if licensed) attempt to aggregate most if not all small commercial and residential customers in MPC's service territory and be designated by the PSC as a default supplier. However, The Bonneville Power Administration's Record of Decision, issued in late December, 1999, foreclosed on the Cooperative's eligibility to purchase bargain rate "preference power" because it does not own a distribution system.
- PacifiCorp sold its distribution network to Flathead Electric Cooperative, which in turn formed a for-profit affiliate to serve PacifiCorp's former urban area customers. Flathead has committed to paying the difference between its property tax liability in the relevant counties and the level of taxes PacifiCorp WOULD have paid.
- Universal System Benefit Program (USBP) credits are being administered by the Dept. of Revenue, following a controversy over the intent of statutory language dealing with creditable

expenditures. Following a hearing on proposed rules on November 12, 1999, the department resolved the issue. Consequently, levels of benefits to USBP beneficiaries such as Energy Share of Montana and the state's low-income energy assistance program are assured.

- The Public Service Commission issued consumer protection rules that entered into effect in June, 1999. The rules require that suppliers must: obtain written authorization for a supplier switch on a customer's behalf; provide on request a service contract that explain's the supplier's rates, terms, and conditions in plain (and easily comparable) language; and, identify in the service contract all charges, fees, and penalties associated with the supplier's service.
- C Customer education efforts and pilot programs are largely on hold, pending the determination of CTCs and the resolution of other regulatory issues.
- C Market rates for electricity are trending upward in the region. The U.S. Department of Agriculture issued a paper in January, 1999 projecting that consumers in the Pacific Northwest, the Rocky Mountain States, and the Northern Plains region (among other places) will pay more for power as prices rise under competition. Other agencies and research teams have made similar predictions.

There is no visible, statewide consensus on where restructuring is taking Montana. There are divergent perspectives on whether market forces are reliable in Montana--whether effective competition will

materialize, and if it does, whether it will bring lower or higher electricity prices for small businesses and residential consumers. In advance of genuinely competitive market conditions, which can't really take hold until after the transition period, different groups are doing their best to position themselves in the market so that they're ready to endure and/or take advantage of the competitive market when it arrives.



BACKGROUND

I. Transition Advisory Committee

The Transition Advisory Committee on Electrical Utility Industry Restructuring (TAC) was created by Senate Bill 390 in the 1997 Legislature. The TAC is composed of 24 members, 12 of whom have voting privileges and are Montana legislators--six from each house. The voting membership is bipartisan; i.e., there are equal numbers of Republicans and Democrats. In addition, there are 12 nonvoting advisory representatives that embody a cross section of groups interested in the process of partial deregulation of the electrical industry. (See current list at Appendix 1.)

The initial term for members on the TAC expired on December 31, 1999. With a few exceptions, members appointed by the governor or selected to represent interest groups in the last interim were reappointed and are therefore still on the Committee's membership roster. Terms last for up to two years, and will henceforth expire on January 1 of odd-numbered years. The TAC must dissolve on the date that full transition to retail competition among electricity suppliers is completed or December 31, 2004, whichever happens first.

The Committee has ongoing staff support from Legislative Services Division as well as *ad hoc* assistance from the Public Service Commission and several other state agencies. The TAC must meet at least quarterly, and may meet as often as necessary (within budgetary constraints) to conduct its business. At its first meeting of the 1999-2000 interim, the TAC adopted the following dates for

subsequent meetings: November 5, 1999, and February 18, April 21, June 23, and September 8, 2000.

In the 1997-99 interim, the Legislature authorized the TAC to spend \$200,000. It actually took in and expended \$79,000, all of which was contributed by the Montana Power Co. and the Montana Association of Electrical Cooperatives. The 1999 Legislature gave the TAC authority to spend \$100,000. To date, the Committee has received \$50,000, all of it from MPC. Additional revenue is anticipated, from PP&L Global, the MECA, Montana-Dakota Utilities, and Avista. At the close of calendar year 1999, the TAC had expended approximately \$22,000.

II. Key Legislation

The TAC's monitoring, oversight, and reporting responsibilities are thus far connected with bills passed in two Legislative Sessions, in 1997 and 1999, including:

3 Senate Bill No. 390 (1997) Monitoring and measuring the transition to effective competition. See statutes in Title 69, Chapter 8, Parts 1 through 6 in the Montana Code Annotated.

3 House Bill No. 404 (Chapter 372, Laws of 1999; 69-8-501, MCA): Expansion of the TAC's legislative membership; appropriation for TAC.

3 Senate Bill No. 406 (Chapter 575, Laws of 1999; Title 35, Chapter 19, Parts 1 through 4, Montana Code Annotated): Enabling the formation of an aggregated Electricity Buying Cooperative.

3 House Bill No. 211 (Chapter 185, Laws of 1999; 69-8-203, MCA): Allowing Local Governments to be licensed as "default suppliers".

3 House Bill No. 174 (Chapter 556, Laws of 1999; codified in titles 7, 15, 17, 20, and 69): Property tax classification changes for utilities; adoption of a kilowatt-hour tax.

3 House Bill No. 337 (Chapter 580, Laws of 1999; 18-4-132, 69-8-103, and 69-8-part 4, MCA): Monitoring/administration of the Universal Systems Benefits Programs.

3 Senate Bill No. 409 (Chapter 323, Laws of 1999; 69-8-103, and 69-8-part 6, MCA): Providing for the Net Metering of electricity.

III. Substantive Issues

In the 1999-2000 interim, the TAC will focus its attention on the following:

- ' Resolution of Montana Power Company (MPC) "Tier 2" issues in transition plan filed with the PSC
- ' Closure of the sale of MPC's generation assets to PP&L Global; distribution of resulting funds and capital gains
- ' Administration of Universal Systems Benefits funds (Department of Revenue)
- ' PSC rules governing consumer protection, electricity product labelling, the licensure of default electricity suppliers
- ' Bonneville Power policy decisions affecting supply to public utilities
- ' Tax impacts and implications of restructuring
- ' Customer education efforts; pilot programs
- ' System reliability (e.g., the structure of self-governing regional transmission grids)
- ' Federal legislation (pending) and its potential impacts and effects
- ' Regional price trends, especially for small commercial and residential consumers
- ' Relationships between non-profit Coops and Coop/IOU "hybrid" distribution systems
- ' Determining what "effective competition" means, and what to do in (or about) its absence
- ' Legislative measures (if any) that are necessary to ensure the transition to competition
- ' Implications of restructuring for the future role of regulation of the electrical industry

IV. Producers and Suppliers

Since the licensing of competitive electric suppliers began in September 1998, 21 suppliers have obtained licenses to serve commercial or industrial accounts, and four are offering electric supplies to residential and small commercial customers. Some of these suppliers specialize in serving certain accounts, such as school districts, or commercial customers within the local vicinity surrounding certain cities, such as Missoula, Helena, and Philipsburg.

Interest in serving smaller accounts among suppliers who are not yet licensed is expected to accelerate with the unbundling of customer bills that began with September 1999 billings on the Montana Power Company system. Now that customers will be able to understand the various components of their bills, it will be easier for them to make value comparisons among competing energy suppliers. Customers that were formerly served by PacifiCorp in the Kalispell area are expected to begin receiving unbundled bills in early, 2000, with full customer choice available by July 1, 2000.

Competitive energy suppliers continue to be most interested in serving larger blocks of power, however. Generally, any quantity less than 25 Mw is considered an odd lot and comes at a higher price. Margins on power sales continue to be narrow in a very competitive market.

Montana Power Company. As a result of its decision to sell almost all of its electrical generation facilities to PP&L Global, MPC is getting out of the business of producing power. MPC sold 11 hydro dams, a storage reservoir, its portions of 3 coal-fired plants at Colstrip, and the Corette facility in Billings, the combination of which amounts to about 1315 megawatts of capacity. While the company's approximately 285,000 customers--half the Montana's electricity consumers--will be able to choose a supplier on or before July 1, 2002, MPC retains a statutory responsibility for distribution and for supplying those customers who neglect or decide NOT to choose their electricity supplier. [See 69-8-201(3); 69-8-203; 69-8-403(10), MCA].

Quarterly payments of corporation income taxes in 1999 to the Department of Revenue indicate that MPC will likely enjoy considerable capital gains from the transaction, and that the state may consequently enjoy a one-time windfall of approximately \$30 million. This outcome is not certain, however. MPC could use net proceeds to purchase Qualifying Facilities contracts, which in effect would transfer the capital gains liability to other entities.

PacifiCorp. PacifiCorp sold its distribution facilities to Flathead Electric Cooperative in 1998. In June, 1999, the Public Service Commission issued an order that the \$4 million net gain will be dedicated to improvements in the distribution system (and thus reduce the risk of failure) over the next 2 years.

Electrical Cooperatives. Roughly half of the electricity customers in the state--and nearly all in the rural areas of eastern Montana-- are served consumer-owned, non cooperatives. Most of the 26 Electric Coops in Montana have so far not opted to open their service territories to competition, as provided in SB 390. The two exceptions are Glacier Electric, which opened its system in July, 1999, and also obtained a license to supply other customers, and Flathead Electric, which plans to enter the competitive market in July, 2000. Other members of the Montana Electric Cooperative Association (MECA) are undertaking internal cost studies, and sharing information with each other to determine whether some sort of joint venture might be feasible. MECA obtained a \$50,000 grant from a financial subsidiary of their national organization to look into the feasibility of: (1) aggregating cooperatives' customers and then shopping for a common supplier, and (2) forming a statewide "buyers' cooperative" that would purchase electricity for all the MPC customers who do not (or cannot) exercise choice of supplier by mid-2002.

Flathead Electric Cooperative (FEC), based in Kalispell, acquired the facilities, equipment, and customer base of PacifiCorp in July, 1998. In order to comply with the state's Electric Cooperative Enabling Law (see 35-18-102, MCA), the coop was compelled to create a regulated, for-profit subsidiary, Energy Northwest Inc. (ENI), in order to serve the urban portion (cities with over 3,500 residents) of the PacifiCorp properties. Under Montana's property tax laws, investor-owned utilities such as PacifiCorp pay a 12 percent rate, whereas coops pay 3%. To avoid the affected local governments' precipitous loss of property tax revenues as a result of FEC's purchase, the Coop agreed

to make payments in lieu of taxes. This arrangement may not be tenable in the future, and raises questions about tax equity in the restructured environment.

The Flathead situation presents other challenges to state policymakers. In a November 2 letter to the Transition Advisory Committee, FEC's General Manager raised the following as potential issues: transition plan development and implementation, default provision for ENI as a regulated entity and FEC as an [unregulated] cooperative, USBP credits and reporting, cost allocation study for unbundling of both FEC and ENI and the impacts between the two entities, and the necessity or lack of necessity for separating distribution services, marketing, and new related services in a customer-owned cooperative utility.

Montana Electricity Buying Cooperative. The MEBC was enabled by SB 406, which is codified in Title 35, Chapter 19, Parts 1 through 3. It has a 5-member Board of Directors, one of whom (Kathy Hadley) is a member of the Transition Advisory Committee. The statewide coop aspired to qualify for the Bonneville system's lowest priced electricity, known as "preference" power, which is provided under contract to public utilities that have a binding obligation to serve their customers. Attaining default supplier status under the Public Service Commission's rules would fulfill this requirement; however, BPA's policy regarding another critical qualification--that the receiving utility own its own distribution system--was clarified and underscored in the federal agency's Record of Decision, issued at the end of 1999. In effect, the MEBC is frozen out of preference power. It remains to be seen whether the Cooperative will find another sustainable niche in the Montana market, perhaps as an aggregated purchaser of environmentally friendly ("green") power.

Bonneville Power Administration. The BPA is the power marketing agency for federal dams in the Pacific Northwest. Bonneville owns about 40 percent of the region's power production capacity and more than 50 percent of its transmission system. In allocating power (and monetary benefits) throughout the region, the agency has to balance the interests of public entities, such as rural cooperatives and municipal utilities with those of investor-owned utilities like Montana Power and direct service customers, principally aluminum smelters. The restructuring picture in Montana has become more puzzling than it would otherwise be by complications arising from several interrelated BPA activities: the settlement of its traditional Residential Exchange Program, and how much Montana is slated to receive as a result; the fulfillment of a new energy subscription process, based on multi-year contracts; reconfigurations of transmission costs; and reconsiderations of preference power. More generally, the future governance of the Bonneville system is being questioned in Congress and among the states in the region. All of this complicates the restructuring scene in Montana, and much of it was not contemplated--or at least not discussed openly at length--prior to passage of SB 390. For a more detailed assessment of these issues, visit the TAC web site (http://leg.mt.gov/interim_committees/TAC) and click on *Roll On/Over Columbia*.

V. Consumers and Customer Groups.

While customers have until July 1, 2002, to exercise choice, approximately 330 customer accounts representing 25 percent of Montana Power Company's retail load have elected to purchase their energy supplies from seven of the licensed suppliers. These accounts include residential and small commercial customers as well as large commercial and industrial accounts. MPC has all of the necessary systems in place to switch customers to competing suppliers. If an extremely large number of customers were to simultaneously request switching to other suppliers, a delay might occur because of processing time, but no restrictions exist for customers requesting to switch.

Customers that have switched suppliers are indicating average savings of approximately five percent compared to their regulated electricity service, with some saving as much as 15 percent. Customers are still concerned about the potential impacts of transition costs and have been reluctant to commit to contracts longer than 18 months. According to a representative of nearly 20 large customers, none of the customers would opt to return to regulated supply service.

In the first year of Customer Choice, the PSC licensed 18 electricity Suppliers. Eight of these licensed suppliers had entered into Supplier Agreements with Montana Power and seven are currently supplying electricity to Montana Power Company customers. Three electricity suppliers met the licensing requirements to serve the residential and small commercial customers. Two of these three have also been licensed to supply natural gas to the residential and small commercial customers. Other suppliers continue to explore and enter the market. The Commission has licensed more suppliers since June 30, 1999. There are now 21 licensed electricity suppliers with four of these licensed to supply electricity to residential and small commercial customers.

Suppliers are marketing to customers. At this time, some are narrowly focusing their activities to the larger customers, or a specific niche of customers. However, at least one supplier has directed a mass mailing to interested customers around the state and is following up on the customer responses to that mailing. As authorized by the individual customer, Montana Power provides names and addresses of interested customers to the suppliers licensed to supply the residential and small commercial customers.

Montana Power has held two meetings with interested suppliers discussing Customer Choice and the processes to support it. Discussions on specific issues, or customer enrollments, between MPC employees and the suppliers continue on a daily basis. Additional Supplier meetings will be scheduled as the need arises.

Customer Education is progressing with efforts focused on those customers with the greatest interest and with efforts to facilitate interaction between interested customers and interested suppliers as authorized by the customer. Customer education materials continue to be reviewed by PSC staff consistent with the Transition Plan Order. As the Tier 2 case and the generation sale are completed, and costs are further "unbundled", more detailed information about supply costs will be available for

both customers and suppliers to more fully weigh the opportunities of Customer Choice. The Customer Education activities have been targeted to identify the customers with the greatest interest in customer choice and to provide more information to those customers. The bill insert, separate direct mail, the Customer Choice web site for Montana Power and the PSC energy restructuring web pages, toll-free numbers for Montana Power and the PSC, and presentations as requested by customer groups, are the primary customer education strategies currently implemented. Mass media and other broader customer education activities will be implemented as bills are unbundled and as the generation sale and Tier 2 issues are resolved. These events will provide better detail for customer understanding of their opportunities for choice and potential benefits of choosing a competitive supplier.

In addition to information provided in the MPC billing statement envelope, a mailing separate of the customer bill was sent to all accounts last fall, providing customers with general information about electricity and natural gas choice and inviting customers to become Early Explorers to learn more about the new energy frontier.

While the TAC is concentrating its energies on electricity, it is worth noting here that Montana Power's largest natural gas customers (larger than 60,000 dekatherms) have had supply choice since 1991. The next group of customers, those with loads greater than 5,000 dekatherms, could move toward supply choice as of November, 1997. A little more than half of MPC's pre-choice retail gas loads have moved to competitive supply. Supply Choice is now available to all MPC's natural gas customers. There are currently seven suppliers licensed by the PSC to serve natural gas supply. Two have met the licensing requirements to supply residential and small commercial customers. Five suppliers have enrolled customers on the Montana Power Company system. Aggregation of the residential and small commercial accounts is allowed but none has taken place to date.

VI. National and Regional Context

In general, all states are facing major changes in the electric industry, even without state legislation being passed or rules being promulgated. Twenty three states have either enacted laws to establish retail competition or issued comprehensive regulatory orders; others have pending legislative or regulatory orders, or are studying restructuring. Large customers are generally faring well, but so far market conditions favorable to small commercial and residential customers are problematic. Major mergers are occurring in the industry, even in states which have not passed restructuring measures. Since various types of rate caps, moratoriums, and other governmental restrictions on prices are in effect virtually everywhere, the real outcome of retail deregulation is still a matter of learned speculation--and debate.

Meanwhile, nationwide restructuring bills have been offered in both houses of Congress. H.R. 2944, introduced by Representative Joe Barton (R-Texas), was passed out of the Energy and Power Subcommittee of the House Commerce Committee in late October. H.R. 2944 defers to states that have enacted retail competition, and allows states a 3-year grace period for measures that contravene

the bill's provisions for consumer protection, aggregation, net metering, and interconnection. It contains standards for Regional Transmission Organizations, and incentives for membership in them, but no longer carries a binding requirement to join. The bill is favored by electric utilities and trade interests, but opposed by consumer and environmental groups.

On the Senate Side, Sen. Frank Murkowski (R.-Alaska) has released a draft that contains most of the same types of provisions: no federal requirement to adopt competition, deference to state jurisdiction, stranded cost recovery mechanisms, RTO standards for voluntary participation.

The Clinton Administration has proposed legislation that diverges fairly significantly from the Barton and Murkowski bills. Department of Energy Secretary Bill Richardson has commented in recent months on the importance passing a federal electricity restructuring bill in 2000, emphasizing the need to ensure reliable delivery systems from coast to coast. However, the administration regards both the Barton and Markey approaches as overly generous to state jurisdiction and unnecessarily protective of investor-owned utilities.

Several key issues have blocked faster progress toward national legislation: disagreements over how much authority should be vested in the Federal Energy Regulatory Commission, how to fold two giants the Bonneville Power Administration and the Tennessee Valley Authority, into a market economy, how to ensure the reliability of the nation's regional transmission grids, and how to protect consumers from being harmed by colossal, unregulated power producers. At the same time, there is broad, bipartisan acknowledgment that a properly restructured industry could save consumers \$20 billion or more on an annual basis.

Other states in the Pacific Northwest region are taking a more cautious approach to restructuring than Montana. Oregon will be offering choice to large commercial enterprises in October, 2001, and residential consumers will be able to choose from different product/service portfolios. The law prohibits, however, any Oregon IOU from selling its generation without Public Utility Commission approval. Idaho's regulatory agency and, so far, the majority of the legislature have determined that out-of-state demand for the state's inexpensive power would bid up prices and exacerbate water rights conflicts. Washington has approached restructuring slowly and incrementally, starting with a study of the ramifications that acknowledges the critical role of the Bonneville Power Administration in keeping downward pressure on electricity prices. The province of Alberta has been undertaking its own form of restructuring since 1993, and recently announced an auction of nearly all the electricity generated by coal and natural gas facilities in the form of 20-year power purchase contracts. In Utah, Wyoming, Colorado, and North and South Dakota, studies have been done or are underway, and there are few indications that formal restructuring measures will be adopted in 2000. (For a synopsis of all the state's approaches as of September, 1999, see the Edison Electric Institute's Current Status Summary, at appendix 3.)